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**REMARKS**

Claims 1-18 are currently pending in the subject application and are presently under consideration. Applicants note with appreciation the Examiner's indication of allowable subject matter in claims 9-18. Claim 1 has been amended herein by incorporating allowable subject matter therein. Entry of the amendment is respectfully requested since it removes issues in the event of an appeal, does not require further searching, and/or places the subject application in condition for allowance.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

**I. Rejection of Claims 1-8 Under 35 U.S.C. §102(b)**

Claims 1-8 are rejected under 35 U.S.C. §102(b) as being anticipated by Dai (US 5,877,076). It is respectfully submitted that this rejection be withdrawn for at least the following reasons. Claim 1 has been amended by incorporating a portion of allowable claim 9 therein. More specifically, claim 1 has been amended to further describe the method for making a dual damascene pattern in a single etch process as involving etching the at least one insulative layer through the first patterned photoresist layer and the second patterned photoresist layer simultaneously in the single etch process, wherein the first image and the second image are substantially formed in the at least one insulative layer.

For a prior art reference to anticipate, 35 U.S.C. §102 requires that "each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *In re Robertson*, 169 F.3d 743, 745, 49 USPQ2d 1949, 1950 (Fed. Cir. 1999) (*quoting Verdegaal Bros., Inc. v. Union Oil Co.*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987)).

The Examiner continues to assert that Dai anticipates the claimed invention. Applicants respectfully disagree.

Contrary to the present invention, Dai fails to teach etching the top oxide layer 140 to form the first (hole pattern 151) and second image (line pattern 161)

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simultaneously in a single etch process, wherein the first image and the second image are substantially formed in the at least one insulative layer. For example, Dai states:

Using the hole pattern (151) in N-type layer of photoresist (150) as a mask, top oxide layer (140) is next etched to transfer the hole pattern as shown in FIG. 3g. It is preferred that the recipe used for dry etching the oxide layer in a HDP oxide etcher comprises gases Ar, CHF<sub>3</sub> and C<sub>4</sub> F<sub>8</sub> at a flow rate... The recipe is next changed to a recipe comprising Ar, CHF<sub>3</sub> and CF<sub>4</sub> at a flow rate ... in order to etch the SiN layer (170) ...

Line pattern (161) in photoresist layer (160) is next extended down to the top of oxide layer (140) with a blanket resist dry etch recipe... (col. 7, ll. 14-32).

Hence, etching the top oxide layer to form the hole pattern 151 and the line pattern 161 in the top oxide layer is not simultaneous in a single etch process in Dai, as described and claimed in the present invention. Furthermore, etching the tri-layer dielectric (140, 130, 120) to form both images does not occur simultaneously in a single etch process in Dai.

In view of the foregoing, the rejection against claim 1 and claims 2-8, which depend therefrom, should be withdrawn.

### **III. Rejection of Claims 2 and 3 Under 35 U.S.C. §103(a)**

Claims 2 and 3 are rejected under 35 U.S.C. §103(a) as being unpatentable over Dai ('075) as applied to claim 1 above, and further in view of Chang (US 4,165,395). It is respectfully submitted that this rejection be withdrawn for at least the following reasons. Claims 2 and 3 depend from claim 1. Therefore, the arguments and remarks set forth above with respect to claim 1 also apply herein.

In addition to the discussion set forth above, Chang fails to cure the aforementioned deficiencies of Dai. In particular, Chang fails to teach or suggest forming a first image (patterned in a first photoresist) and a second image (patterned in a second photoresist) simultaneously in an insulating layer in a single etch process, as claimed in the present invention. More importantly, Chang is merely relied upon for its apparent teaching of exposing a photoresist to UV light.

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In view of the foregoing, the rejection should be withdrawn.

III. Conclusion

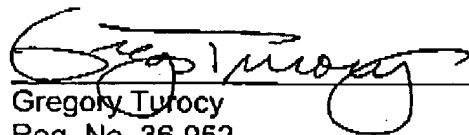
The present application is believed to be condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1063.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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